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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,551	01/23/2004	Hiroshi Kawaguchi	NEC 03USFP936	7553
7590	10/19/2004		EXAMINER	
Norman P. Soloway HAYES SOLOWAY PC 130 W. Cushing Street Tucson, AZ 85701			WILSON, ALLAN R	
			ART UNIT	PAPER NUMBER
			2815	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/763,551	KAWAGUCHI ET AL.
Examiner	Art Unit	
Allan R. Wilson	2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,2,7-10,15 and 16 is/are rejected.

7) Claim(s) 3-6 and 11-14 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

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Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0104.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Throughout the specification, including claims 3, 5, 12 and 13, the term “(atom/cm⁴)” should be --(atom/cm³)--. There is no forth physical dimension.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7-10, 15 and 16 are rejected under 35 USC § 102(b) as being anticipated by Hutter et al. (“Hutter”) U.S. Patent No. 6,033,946.

With regards to claim 1, Hutter illustrates in figures 1A-8, particularly figure 8, (entire document) a semiconductor substrate 12 of a first conductive type P; first and second regions 48 of a second conductive type N opposite to the first conductive type, wherein said first and second regions 48 are provided in a surface of said semiconductor substrate 12 in a predetermined interval; a third region 35 of said first conductive type which is provided between said first and second regions in said surface of said semiconductor region; and a fourth region 30 of said first

conductive type which is provided below said third region inside said semiconductor substrate to cover the whole of bottom of said third region at least.

With regards to claims 2 and 10, Hutter illustrates in fig. 8 a position of an impurity peak concentration of said fourth region 30 into a depth direction is deeper than a peak position of an impurity concentration in each of said first and second regions 48 into the depth direction.

With regards to claims 7, 8, 15 and 16, the examiner had to assume what the product would be by the process claimed. For example, in claim 7 it was assumed that the product was a fourth region of a first conductive type. The claim that it was “formed by ion implantation” was not considered to have full patentable weight. A “product by process” claim is directed to the product per se, no matter how actually made, MPEP 2113 “Product-by-Process Claims,” In re Brown, 173 USPQ 685; In re Luck, 177 USPQ 523; In re Fessmann, 180 USPQ 324; In re Avery, 186 USPQ 161; In re Wertheim, 191 USPQ 90; In re Marosi et al, 218 USPQ 289; and particularly In re Thorpe, 227 USPQ 964, all of which make it clear that it is the patentability of the final product per se which must be determined in a “product by process” claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in “product by process” claims or not. Note that applicant has the burden of proof in such cases, as the above case law makes clear.

With regards to claim 9, Hutter illustrates in fig. 8 a fourth region 30 of said first conductive type which is provided below said first to third region 35, 48 inside said semiconductor substrate to cover the whole bottoms of said first to third regions.

Allowable Subject Matter

Claims 3-6 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the above objection is overcome.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hui et al. (illustrates a structure similar to the one claimed), Kim (illustrates in the prior art a structure similar to the one claimed), Matukura et al. (illustrates a device with PN isolations) and Lohstroh et al. (illustrates in fig. 6 a structure similar to the one claimed).

Field of Search	Date
U.S. Class and subclass: 257/273, 370, 378	October 18, 2004
Other Documentation: None	N/A
Electronic data base(s): EAST (USPAT, US-PGPUB, JPO, EPO, Derwent, IBM TDB)	October 18, 2004

Any inquiry concerning this communication or earlier communications from an examiner should be directed to Primary Examiner Allan Wilson whose telephone number is (571) 272-1738. Examiner Wilson can normally be reached 7:00-4:00 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (571) 272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allan R. Wilson
Primary Examiner
October 18, 2004